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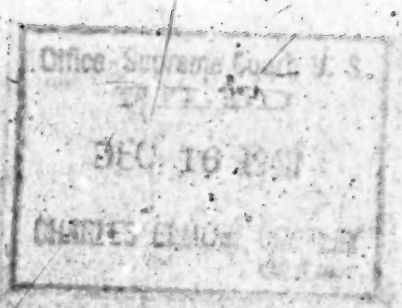

Nos. 239, 240, and 248 Misc.

In the Supreme Court of the United States

OCTOBER TERM, 1948

KOKI HIROTA, PETITIONER

v.

GENERAL OF THE ARMY DOUGLAS MACARTHUR, ET AL.

KENJI DOHIHARA, PETITIONER

v.

GENERAL OF THE ARMY DOUGLAS MACARTHUR, ET AL.

KOICHI KIDO, TAKASUMI OKA, KENRYO SATO, SHIGETABO SHIMADA AND SHIGENORI TOGO, PETITIONERS

v.

GENERAL OF THE ARMY DOUGLAS MACARTHUR, ET AL.

ON MOTIONS FOR LEAVE TO FILE PETITIONS FOR WRITS OF HABEAS CORPUS

SUPPLEMENT TO DOCUMENTARY APPENDIX

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Letter of December 15, 1948, From the Secretary General, Far Eastern Commission, to the Acting Secretary of State

December 15, 1948.

My Dear Mr. Lovett: On December 10, 1948, the United States Delegation on the Far Eastern Commission placed before that body a letter from the Solicitor General to the Secretary of State, also of December 10, in which it was stated that "the Department of Justice wishes the Department of State to ascertain from the Far Eastern Commission whether the Far Eastern Commission regards the International Military Tribunal as an international court, appointed and acting under international authority, or as an American tribunal, appointed and acting under the unilateral authority of the United States; and specifically whether it regards the action of the Supreme Commander for the Allied Powers in proclaiming the establishment of the International Military Tribunal for the Far East, approving and amending the charter of that Tribunal, appointing as judges of the Tribunal the persons nominated by the individual governments represented in the Far Eastern Commission, and approving, after consultation, the sentences imposed by the Tribunal, as being in accordance with Paragraph 5

of the Far Eastern Commission's policy decision of April 3, 1946, and as taken in accordance with the authority and direction of the Far Eastern Commission."

The Far Eastern Commission, at its one hundred thirty-second meeting on December 15, approved the following statement which I hereby certify to be a true and exact copy of the original text:

> The Far Eastern Commission has taken note of the question asked by the Department of Justice of the United States, and in reply states that the International Military Tribunal for the Far East is an international court, appointed and acting under international authority; and that it regards the action of the Supreme Commander for the Allied Powers in proclaiming the establishment of the International Military Tribunal for the Far East, in approving and amending the charter of that tribunal; in appointing as judges of the Tribunal the persons nominated by the individual governments represented in the Far Eastern Commission; and in approving, after consultation, the sentences imposed by the tribunal, as in accordance with FEC policy decision of April 3, 1946, and as taken in

accordance with the authority and direction of the Far Eastern Commission.

Sincerely yours,

(Sgd.) NELSON T. JOHNSON,
Secretary General.

The Honorable ROBERT A. LOVETT,
Acting Secretary of State
Department of State

13 AUGUST 1945

DIRECTIVE TO THE SUPREME COMMANDER FOR THE ALLIED POWERS

In accordance with the agreement among the Governments of the United States, Chinese Republic, United Kingdom, and Union of Soviet Socialist Republics to designate a Supreme Commander for the Allied Powers for the purpose of enforcing the surrender of Japan, you are hereby designated as the Supreme Commander for the Allied Powers.

You will require the issuance of a proclamation signed by the Emperor authorizing his representatives to sign the instrument of surrender. The proclamation to be signed should be substantially in the form appended hereto. You will take the necessary steps to require and receive from the duly authorized representatives of the Japanese Emperor, the Japanese Government, and the Japanese Imperial General Headquarters the signed instrument of surrender. The text of the instrument of surrender is appended hereto. You will accept the surrender for the four Governments concerned and in the interests of the other United Nations at war with Japan.

I have asked the heads of state of China, Great Britain, and the Union of Soviet Socialist Republics each to designate a representative who may be present with you at the time and place of surrender. I have designated Fleet Admiral

Chester W. Nimitz to be present as the United States representative for this purpose. As soon as I have received the other designations you will be advised. You will make the appropriate arrangements.

Having accepted the general surrender of Japanese armed forces, you will require the Japanese Imperial General Headquarters to issue general orders which will instruct Japanese commanders wherever situated as to the mechanics of surrender and other details effectuating the surrender. You will effect any necessary coordination of arrangements with the Japanese Imperial General Headquarters with regard to the surrenders to the Allied Commanders concerned of Japanese armed forces abroad.

From the moment of surrender, the authority of the Emperor and Japanese Government to rule the state will be subject to you and you will take such steps as you deem proper to effectuate the surrender terms.

You will exercise supreme command over all land, sea and air forces which may be allocated for enforcement in Japan of the surrender terms by the Allied Powers concerned.

Your appointment as Supreme Commander for the Allied Powers is effective upon receipt of this directive.

S. HARRY S. TRUMAN

Enclosures:

1. Proclamation.
2. Instrument of Surrender

U. S. GOVERNMENT PRINTING OFFICE 1948